



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 130501429-4198-02]

RIN 0648-XC659

Endangered and Threatened Wildlife; Final Rule to Revise the Code of Federal Regulations for Species Under the Jurisdiction of the National Marine Fisheries Service

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: We, NMFS, announce revisions to the Code of Federal Regulations (CFR) to clarify and update the descriptions of species under NMFS' jurisdiction that are currently listed as threatened or endangered under the Endangered Species Act of 1973 (ESA). Revisions include format changes to our lists of threatened and endangered species, revisions to regulatory language explaining our lists, updates to the descriptions of certain listed West Coast salmonid species to add or remove hatchery stocks consistent with our recently completed 5-year reviews under ESA section 4(c)(2), and corrections to regulatory text to fix inadvertent errors from previous rulemakings, update cross-references, and provide consistent language. We are not adding or removing any species to or from our lists, changing the status of any listed species, or adding or revising any critical habitat designation.

DATES: This final rule is effective on [insert date of publication in the FEDERAL REGISTER].

ADDRESSES: Information concerning this final rule may be obtained by contacting Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the 5-year status reviews can be found on our websites at

<http://www.nmfs.noaa.gov/pr/listing/reviews.htm> and <http://www.westcoast.fisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: For further information regarding this rule contact Maggie Miller, NMFS, Office of Protected Resources (301) 427-8403; for information on the 5-year status reviews of Pacific salmonids, contact Steve Stone, NMFS, West Coast Region (503) 231-2317.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4 of the ESA provides for both NMFS and the U.S. Fish and Wildlife Service (FWS) to make determinations as to the endangered or threatened status of “species” in response to petitions or on their own initiative. In accordance with the ESA, we (NMFS) make determinations as to the threatened or endangered status of species by regulation. These regulations provide the text for each species listing and include the content required by the ESA section 4(c)(1). We enumerate and maintain a list of species under our jurisdiction which we have determined to be threatened or endangered at 50 CFR 223.102 (threatened species) and 50 CFR 224.101 (endangered species) (hereafter referred to as the “NMFS Lists”). The FWS maintains two master lists of all threatened and endangered species, i.e., both species under NMFS’ jurisdiction and species under FWS’ jurisdiction (the “FWS Lists”), at 50 CFR 17.11 (threatened and endangered animals) and 50 CFR 17.12 (threatened and endangered plants). The term “species” for listing purposes under the ESA includes the following entities: species, subspecies, and, for vertebrates only, “distinct population segments (DPSs).” Pacific salmon are

listed as "evolutionarily significant units (ESUs)," which are essentially equivalent to DPSs for the purpose of the ESA. For West Coast salmon and steelhead, many of the ESU and DPS descriptions include fish originating from specific artificial propagation programs (e.g., hatcheries) that, along with their naturally-produced counterparts, are included as part of the listed species.

We recently completed a 5-year review of the status of ESA-listed salmon ESUs and steelhead DPSs in California (76 FR 50447, August 15, 2011; and 76 FR 76386, December 7, 2011) and in Oregon, Idaho, and Washington (76 FR 50448; August 15, 2011). The ESA requires this regular review of listed species to determine whether a species should be delisted, reclassified, or whether the current classification should be retained (16 U.S.C. 1533(c)(2)). As a result of our review, we identified several errors, omissions, and updates that warrant revising the NMFS and FWS Lists for the sake of accuracy and improved readability. We also identified cross-referencing errors in our regulations at 50 CFR 223. On June 26, 2013, we proposed to revise the NMFS Lists based on the aforementioned review and additionally proposed to correct or clarify text and update the list formats for all species under our jurisdiction (78 FR 38270), and solicited public comments.

#### Summary of Comments Received in Response to the Proposed Rule

We received a single comment from an individual and a number of comments from the Washington Department of Fish and Wildlife (WDFW) during the public comment period. A summary of the comments and our responses is provided below.

Comment 1: One commenter objects to listing the species in the NMFS lists alphabetically by common name and states that in a list of this sort, a phylogenetic sequence should be used, and there are a number of published references that provide such lists. In this

way, the agency would avoid the problem of taxa in a single genus being separated in the list by taxa of other genera. Listing some taxa by their common names and other taxa by their scientific names is confusing and inconsistent. As it stands, subspecific taxa are separated in the lists by other species. For example, bearded seal and Guadalupe fur seal are listed among three subspecies of ringed seals. The proposed rule calls for ordering the species alphabetically (not species and subspecies mixed together); therefore the three ringed seal subspecies should follow the Guadalupe fur seal in the list.

Response: We acknowledge the presence of lists that use phylogenetic sequences and alphabetize taxa by their scientific names, and note that common names may vary in local usage; however, we want to make this list a resource that is easily accessible and searchable by a wide variety of audiences, including the general public. We are acting under the assumption that the general public would be more likely to search by common name, for example, “salmon” or “salmon, Chinook,” rather than search under “Oncorhynchus tshawytscha” in order to learn more about a listing determination or critical habitat for a species. In this way, we are also making our lists consistent with the format of the FWS List for threatened and endangered wildlife (50 CFR 17.11). The threatened and endangered wildlife on the FWS List are listed alphabetically by common name. Additionally, we have created headings in the tables (such as “Marine Mammals,” “Sea Turtles,” and “Fishes”) that should make searching for specific species less confusing. We are also removing the heading “Marine Invertebrates” and adding the new headings of “Corals” and “Molluscs” for increased specificity of the listed animals. This is not a substantive change, but having these more specific headings will help the public identify and locate species of interest in a more efficient manner.

The ESA defines “species” to include subspecies or a DPS of any vertebrate species which interbreeds when mature (16 U.S.C. 1532(16)). As such, the ordering of the “species” alphabetically, as mentioned in the proposed rule, also includes ordering subspecies alphabetically as well. However, we agree that subspecies of the same species should not be separated by other species within the list order. Therefore, we will revise the listed subspecies by placing the subspecies’ common name within parentheses, similar to the way we have listed DPSs, and alphabetizing by the species’ common name. As an example, “Seal, Arctic ringed” will be revised to read “Seal, ringed (Arctic subspecies).”

Comment 2: WDFW recommends identifying listed stocks by naming them individually by basin (noting that this convention was used for the Puget Sound steelhead DPS).

Response: We believe that our current approach remains the best way to describe Pacific salmon and steelhead species listed under the ESA. In our experience, identifying an ESU or DPS using boundary streams or prominent geographic features (e.g., Cape Blanco) allows for concise and intuitive descriptions. As the commenter notes, there are a few cases where the unique geography of a species’ range (e.g., the inland waters of Puget Sound) may call for some additional description. However, in most cases ESA-listed ESUs and DPSs of salmonids under our jurisdiction are easily described using just a few boundary streams/features. More detailed information about finer-scale species distribution can be found in the critical habitat designations and in population delineations described in ESA recovery plans and supporting technical documents for each listed salmon ESU and steelhead DPS.

Comment 3: The Federal Register notice states revisions to the listing descriptions are "to take into account the addition or termination of specific artificial propagation programs which contribute individuals to that ESU or DPS." WDFW recommends excluding segregated stocks

meeting the following criteria: (i) returning adults from the program do not contribute to the ESU; (ii) are within basins where wild stocks of the same species and run type do not occur; (iii) there is no historical natural population; (iv) the program is harvest oriented using an introduced stock to support a terminal fishery. As such, WDFW believes that the Lower Columbia River isolated (segregated) programs should be excluded from the listing.

Response: For the issues raised in this comment we rely on our 2005 “Policy on the Consideration of Hatchery-Origin Fish in Endangered Species Act Listing Determinations for Pacific Salmon and Steelhead” (“Hatchery Listing Policy”; 70 FR 37204, June 28, 2005). The Hatchery Listing Policy establishes criteria for (1) determining when hatchery stocks should be considered part of the listed ESU/DPS; and (2) in evaluating the effect of hatchery-produced fish on the extinction risk of an ESU/DPS. Delineating the “species” under consideration and then evaluating the species’ risk of extinction are distinct considerations in our ESA listing determinations, as reflected in the Hatchery Listing Policy. Some of WDFW’s recommended criteria are consistent with the Hatchery Listing Policy and pertinent to the determination of hatchery membership in an ESU/DPS. Some of the criteria, however, are not pertinent to the determination of hatchery membership but would inform an evaluation of the effects of hatchery fish on overall ESU/DPS extinction risk.

The Hatchery Listing Policy states that hatchery stocks will be considered part of an ESU/DPS if they exhibit a level of genetic divergence relative to the local natural population(s) that is not more than what occurs within the ESU/DPS. We evaluate the relatedness of each hatchery stock to the natural component of an ESU/DPS on the basis of stock origin and the degree of known or inferred genetic divergence between the hatchery stock and the local natural population(s). Several of the criteria that WDFW recommends for excluding segregated hatchery

stocks are valid considerations for evaluating the level of divergence between a hatchery stock and the local natural population(s). Whether a hatchery stock is released in a basin where wild populations of the same species and run type do not occur, whether natural populations exist in the basin (historically or currently), and whether a program propagates an introduced stock, are each important considerations in evaluating the level of divergence of a hatchery stock relative to the local natural population(s). However, whether a hatchery stock is contributing to natural productivity does not inform our determination of hatchery membership in a listed ESU/DPS. Rather, such information would inform our evaluation of the effects of the hatchery stock on overall ESU/DPS extinction risk. Similarly, the management purpose of a hatchery stock in-and-of-itself (e.g., if it is intended to support a terminal fishery) would not inform our determination of ESU/DPS membership. However, the interaction of the hatchery stock with natural populations, and any impacts on natural populations of a fishery the hatchery stock supports, are valid considerations in evaluating overall ESU/DPS extinction risk. We do not believe criteria relating to a hatchery stock's impacts on ESU/DPS extinction risk are valid considerations in determining whether a hatchery stock should be included as part of the listing. As such, we are not excluding the Lower Columbia River isolated (segregated) programs from the listing. For more discussion of this issue, the reader is referred to the response to comments in the Hatchery Listing Policy final rule (see Issue 6 and response, 70 FR at 37209).

Comment 4: WDFW recommends that the Upper Columbia River Spring-Run Chinook Salmon ESU include the recent Nason Creek Program which was implemented in 2013.

Response: Our review of the membership of hatchery programs in listed ESUs/DPS was conducted as part of the ESA 5-year reviews completed 2011 (76 FR 50448; August 15, 2011).

Hatchery programs implemented or modified after our previous review will be evaluated as part of the next ESA 5-year reviews scheduled for 2015.

Comment 5: WDFW notes that fall-run Chinook salmon originating from Upper Columbia River “bright” hatchery stocks (referred to as "brights" because they maintain their silvery color throughout the upstream migration) that spawn in the mainstem Columbia River below Bonneville Dam are excluded from the Lower Columbia River Chinook Salmon ESU. Because this bright stock has been documented spawning in Hamilton Creek and is likely present in other Washington and Oregon Lower Gorge tributaries as well, WDFW recommended that this exclusion to the listing be expanded to include the Lower Gorge tributaries adjacent to the Columbia River mainstem.

Response: We agree that fall-run Chinook salmon originating from the Upper Columbia River bright hatchery stocks that spawn in the Columbia River Gorge area tributaries below Bonneville Dam should also be excluded from the ESU. We have refined the definition for the Lower Columbia River Chinook ESU to exclude Upper Columbia River bright hatchery stocks that spawn in the mainstem Columbia River below Bonneville Dam, and in other tributaries upstream from the Sandy River to the Hood and White Salmon Rivers.

Comment 6: WDFW notes that the Sea Resources Tule Chinook Program was terminated over 5 years ago, and recommends that this program be deleted from the Lower Columbia River Chinook Salmon ESU.

Response: We agree. At the time of our 2011 ESA 5-year reviews the Sea Resources Tule Chinook Program had been terminated, but there were still returning adults. At this time, however, no more adult returns are expected. We have removed the Sea Resources Tule Chinook Program from the ESU definition.



Comment 7: WDFW notes that the Bonneville Hatchery Tule Fall Chinook Program (a portion of the Spring Creek NFH Tule Chinook Program transferred to Bonneville Hatchery) and that portion of the Big Creek Tule Chinook Program transferred to Youngs Bay for Select Area Fishery Enhancement do not support wild tule Chinook populations in these areas. WDFW also notes that it does not operate these programs (or portions of programs), but recommends they be considered for exclusion from the Lower Columbia River Chinook Salmon ESU.

Response: In our 2011 ESA 5-year reviews we determined that the Bonneville Hatchery Tule Fall Chinook Program did not merit inclusion in the ESU. This program was listed as being part of the ESU in the proposed rule by error. It has been removed from the definition of the Lower Columbia River Chinook ESU.

Comment 8: WDFW recommends excluding portions of the Big Creek and Spring Creek NFH Tule Chinook Programs from the Lower Columbia River Chinook Salmon ESU based on their release location because they do not support wild populations in those locations.

Response: As noted previously, we rely on our 2005 Hatchery Listing Policy when considering hatchery-origin fish in ESA listing determinations for Pacific salmon and steelhead. That policy does not contemplate excluding hatchery stocks, or portions thereof, based on their release location or whether they are effectively contributing to the natural production of local populations. A key premise of the policy is that genetic resources represent the ecological diversity and evolutionary legacy of the species, and that these genetic resources can reside in hatchery fish as well as in natural fish. As such, excluding hatchery fish based on their release location or reproductive success would not recognize the genetic resource the hatchery stock represents to the ESU as a whole. In this final rule, we have therefore continued to include the

Big Creek and Spring Creek NFH Tule Chinook Programs as part of the Lower Columbia River Chinook Salmon ESU.

Comment 9: WDFW notes that the Friends of the Cowlitz Spring Chinook Program and the Kalama River Spring Chinook Program are isolated programs and recommends deleting them from the Lower Columbia River Chinook Salmon ESU.

Response: The shift in these programs toward segregation and not using natural-origin fish in the broodstock is relatively recent. Our 2011 ESA 5-year reviews noted that these programs are trending toward divergence and should be reevaluated during the next 5-year review. We are not removing these programs from the ESU definition at this time, but these programs will be evaluated as part of the next ESA 5-year reviews scheduled for 2015.

Comment 10: WDFW disagrees with our proposal to include the Deep River Net Pens Tule Fall Chinook Program in the Lower Columbia River Chinook Salmon ESU, noting that it is an isolated program currently using broodstock from the Washougal Hatchery and does not support a wild tule Chinook population in Deep River.

Response: In our 2011 ESA 5-year reviews we determined that a number of tule fall Chinook programs did not merit inclusion in the ESU: the Deep River Net Pens Tule Fall Chinook Program; the Klaskanine Hatchery Tule Fall Chinook Program; the Bonneville Hatchery Tule Fall Chinook Program; and the Little White Salmon NFH Tule Fall Chinook Program. In the proposed rule these programs were erroneously listed as being part of the ESU. In this final rule we have corrected the ESU definition by removing these programs from the definition of the Lower Columbia River Chinook ESU.

Comment 11: WDFW concurs with our deletion of the now-terminated Elochoman River Tule Chinook Program from the Lower Columbia River Chinook Salmon ESU. However,

WDFW notes that it is in the process of developing a conservation level integrated tule fall Chinook program on the Elochoman to be operated from the Beaver Creek Hatchery and recommended this new program be added to the ESU.

Response: Hatchery programs implemented or modified after our 2011 ESA 5-year reviews will be evaluated as part of the next ESA 5-year reviews scheduled for 2015.

Accordingly, we are not adding the Beaver Creek Hatchery Tule Fall Chinook Program to the definition of the Lower Columbia River Chinook Salmon ESU at this time.

Comment 12: WDFW notes that the spring yearling Chinook program has been terminated at Marblemount Hatchery and recommends that this program be deleted from the Puget Sound Chinook Salmon ESU.

Response: We agree that it is appropriate to delete the spring yearlings component of the Marblemount Hatchery Program from the description of the Puget Sound Chinook listing. As such, we have struck the phrase “spring yearlings” from the description in this final rule so that the definition for the Puget Sound Chinook listing states the “Marblemount Hatchery Program (spring subyearlings and summer-run).”

Comment 13: WDFW notes that the Chinook River (Sea Resources Hatchery) Chum Salmon Program was terminated over 5 years ago and recommends that this program be deleted from the Columbia River Chum Salmon ESU.

Response: We agree. At the time of our 2011 ESA 5-year reviews the Chinook River (Sea Resources Hatchery) Chum Salmon Program had been terminated, but there were still returning adults. At this time, however, no more adult returns are expected. We have removed the Chinook River (Sea Resources Hatchery) Chum Salmon Program from the ESU definition.

Comment 14: WDFW recommends that the Washougal River Hatchery/Duncan Creek Hatchery Program (part of the Columbia River Chum Salmon ESU) be revised to read as the “Washougal River Hatchery/Duncan Creek Program,” because there is no hatchery on Duncan Creek.

Response: We agree and have made the correction in this final rule.

Comment 15: WDFW notes that the Sea Resources Hatchery Program and the Cathlamet High School Future Farmers of America Program were terminated over 5 years ago, and recommends that these programs be deleted from the Lower Columbia River Coho Salmon ESU.

Response: We agree. At the time of our 2011 ESA 5-year reviews the Sea Resources Hatchery Program and the Cathlamet High School Future Farmers of America Type-N Coho Program had been terminated, but there were still returning adult fish. At this time, however, no more adult returns are expected, and we have removed these two programs from the ESU definition.

Comment 16: WDFW comments that the following are isolated programs and recommends deleting them from the Lower Columbia River Coho Salmon ESU: Peterson Coho Program; Cowlitz Game & Anglers Coho Program; Friends of the Cowlitz Coho Program; Fish First Type N Program (used for the mainstem Lewis River); and Syverson Project Type-N Coho Program.

Response: These programs were not identified as segregated during our 2011 ESA 5-year review. Hatchery programs implemented or modified after the 2011 review will be evaluated as part of the next ESA 5-year reviews, which are scheduled for 2015.

Comment 17: WDFW concurs with our inclusion of the Cowlitz Trout Hatchery Late Winter-run Program in the Lower Columbia River Steelhead DPS, and further recommends that

two additional integrated late-winter programs in the Tilton River and the Upper Cowlitz River be added to this DPS.

Response: The Tilton and Upper Cowlitz programs are relatively new (since our 2011 ESA 5-year reviews); hatchery programs implemented or modified after our previous review will be evaluated as part of the next ESA 5-year reviews in 2015.

#### Summary of Changes from the Proposed Rule

Based on the comments received and our review of the proposed rule, we made the changes listed below.

1. We revised the common names of listed subspecies by placing the subspecies' common name within parentheses and alphabetizing by the species' common name.

2. We removed the heading "Marine Invertebrates" from both the threatened species list at 50 CFR 223.102 and the endangered species list at 50 CFR 224.101. We created a new "Corals" heading for the threatened species list at 50 CFR 223.102 and a "Molluscs" heading for the endangered species list at 50 CFR 224.101.

3. We revised the description of the "Salmon, Chinook (Lower Columbia River ESU)" by excluding Upper Columbia River bright hatchery stocks that spawn in the mainstem Columbia River below Bonneville Dam and in other tributaries upstream from the Sandy River to the Hood and White Salmon Rivers, and by removing the following artificial propagation programs from inclusion in the DPS: Sea Resources Tule Chinook Program, Bonneville Hatchery Tule Fall Chinook Program, Deep River Net Pens Tule Fall Chinook Program, Klaskanine Hatchery Tule Fall Chinook Program, and Little White Salmon NFH Tule Fall Chinook Program.

4. We revised the description of the "Salmon, Chinook (Puget Sound ESU)" by deleting reference to the spring yearling component of the Marblemount Hatchery Program.

5. We revised the description of the “Salmon, chum (Columbia River ESU)” by removing the Chinook River Program (Sea Resources Hatchery) from the included artificial propagation programs, and by revising the name of the Washougal River Hatchery/Duncan Creek Hatchery Program to read “Washougal River Hatchery/Duncan Creek Program.”

6. We revised the description of the “Salmon, coho (Lower Columbia River ESU)” by removing the Sea Resources Hatchery Program and the Cathlamet High School Future Farmers of America Type-N Coho Program from the included artificial propagation programs.

7. We made a few additional technical corrections to the regulatory text to provide consistent language. These minor edits do not affect the substance of the regulations.

More information regarding the other administrative changes and technical corrections to the Code of Federal Regulations that will clarify and update the descriptions of species under NMFS’ jurisdiction, and which are being finalized with this rulemaking, can be found in the proposed rulemaking (78 FR 38270, June 26, 2013).

## References

Copies of previous Federal Register notices and related reference materials are available on the Internet at <http://www.nmfs.noaa.gov/pr/listing/reviews.htm>, <http://www.westcoast.fisheries.noaa.gov/>, or upon request (see FOR FURTHER INFORMATION CONTACT section above).

## Classification

Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and Executive Order 13211

This final rule simply updates sections 223 and 224 of the CFR pursuant to prior agency determinations or involves format changes, none of which could result in economic impacts.

Therefore, the economic analysis requirements of the Regulatory Flexibility Act and Executive Order 12866 are not applicable.

#### Federalism

In accordance with Executive Order 13132, we determined that this final rule does not have significant Federalism effects and that a Federalism assessment is not required. The revisions may have some benefit to state and local resource agencies in that the ESA-listed species addressed in this rulemaking are more clearly and consistently described.

#### Civil Justice Reform

The Department of Commerce has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988. In keeping with that Order, we are revising our descriptions of ESA-listed species to improve the clarity and general draftsmanship of our regulations.

#### Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This final rule does not contain new or revised information collection requirements for which Office of Management and Budget (OMB) approval is required under the Paperwork Reduction Act. This final rule will not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

#### National Environmental Policy Act of 1969 (NEPA)

This final rule clarifies and updates the descriptions of species under NMFS' jurisdiction that are currently listed as threatened or endangered under the ESA and thus is primarily

administrative in nature. As such, NMFS has determined this final rule is categorically excluded from further NEPA review by NOAA Administrative Order 216-6, paragraph 6.03c.3(i). No extraordinary circumstances concerning this action exist. Therefore, NMFS will not prepare an Environmental Assessment or Environmental Impact Statement for the rule.

#### Government-to-Government Relationship With Tribes

Executive Order 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments or the Federal government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This final rule does not impose substantial direct compliance costs on Indian tribal governments or communities. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this final rule. Nonetheless, during our 5-year review of salmon and steelhead we solicited information from the tribes, met with several tribal governments and associated tribal fisheries commissions, and provided the opportunity for all interested tribes to comment on the proposed changes to the species' status and descriptions and discuss any concerns they may have. We will continue to inform potentially affected tribal governments, solicit their input, and coordinate on future management actions pertaining to the listed species addressed in this rule.

#### List of Subjects

#### 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.



50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports,  
Imports, Reporting and recordkeeping requirements, Transportation.

Dated: April 8, 2014.

---

Samuel D. Rauch III,  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 is amended as follows:

**PART 223—THREATENED MARINE AND ANADROMOUS SPECIES**

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 et seq.; subpart B, §§ 223.201 and 223.202 also issued under  
16 U.S.C. 1361 et seq.; 16 U.S.C. 5503(d) for § 223.206(d)(9).

2. Revise § 223.101(a) to read as follows:

§ 223.101 Purpose and scope.

(a) The regulations contained in this part identify the species under the jurisdiction of the Secretary of Commerce that have been determined to be threatened species pursuant to section 4(a) of the Act, and provide for the conservation of such species by establishing rules and procedures to govern activities involving the species.

\* \* \* \* \*

3. Revise § 223.102 to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

(a) The table below identifies the species under the jurisdiction of the Secretary of Commerce that have been determined to be threatened pursuant to section 4(a) of the Act, species treated as threatened because they are sufficiently similar in appearance to threatened species, and experimental populations of threatened species.

(b) The columns entitled “Common name,” “Scientific name,” and “Description of listed entity” define the species within the meaning of the Act. In the “Common name” column, experimental populations are identified as “XE” for essential populations or “XN” for nonessential populations. Species listed based on similarity of appearance are identified as “S/A.” Although a column for “Common name” is included, common names cannot be relied upon for identification of any specimen, because they may vary greatly in local usage. The “Scientific name” column provides the most recently accepted scientific name, relying to the extent practicable on the International Code of Zoological Nomenclature. In cases in which confusion might arise, a synonym(s) will be provided in parentheses. The “Description of listed entity” column identifies whether the listed entity comprises the entire species, a subspecies, or a distinct population segment (DPS) and provides a description for any DPSs. Unless otherwise indicated in the “Description of listed entity” column, all individual members of the listed entity and their progeny retain their listing status wherever found, including individuals in captivity. Information regarding the general range of the species, subspecies, or DPS may be found in the Federal Register notice(s) cited in the “Citation(s) for listing determination(s)” column.

(c) The “Citation(s) for listing determination(s)” column provides reference to the Federal Register notice(s) determining the species’ status under the Act. The abbreviation

“(SPR)” (significant portion of its range) after a citation indicates that the species was listed based on its status in a significant portion of its range. If a citation does not include the “(SPR)” notation, it means that the species was listed based on its status throughout its entire range. For “(SPR)” listings, a geographical description of the SPR may be found in the referenced Federal Register notice. The “(SPR)” notation serves an informational purpose only and does not imply any limitation on the application of the prohibitions or restrictions of the Act or implementing rules.

(d) The “Critical habitat” and “ESA rules” columns provide cross-references to other sections in this part and part 226. The term “NA” appearing in the “Critical habitat” column indicates that there are no critical habitat designations for that species; similarly, the term “NA” appearing in the “ESA rules” column indicates that there are no ESA rules for that species. However, all other applicable rules in parts 222 through 226 and part 402 still apply to that species. Also, there may be other rules in this title that relate to such wildlife. The “ESA rules” column is not intended to list all Federal, state, tribal, or local governmental regulations that may apply to the species.

(e) The threatened species under the jurisdiction of the Secretary of Commerce are:

Species <sup>1</sup>			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
<u>Marine Mammals</u>					
Seal, bearded (Beringia DPS)	<u>Erignathus barbatus nauticus</u>	Bearded seals originating from breeding areas in the Arctic Ocean and adjacent seas in the Pacific Ocean between 145° E. Long. (Novosibirskiye) and 130° W. Long., and east of 157° E. Long. or east of the Kamchatka Peninsula.	77 FR 76740, Dec 28, 2012	NA	NA
Seal, bearded (Okhotsk DPS)	<u>Erignathus barbatus nauticus</u>	Bearded seals originating from breeding areas in the Pacific Ocean west of 157° E. Long. or west of the Kamchatka Peninsula.	77 FR 76740, Dec 28, 2012	NA	NA
Seal, Guadalupe fur	<u>Arctocephalus townsendi</u>	Entire species.	50 FR 51252, Dec 16, 1985	NA	223.201
Seal, ringed (Arctic subspecies)	<u>Phoca (=Pusa) hispida hispida</u>	Entire subspecies.	77 FR 76706, Dec 28, 2012	NA	NA
Seal, ringed (Baltic subspecies)	<u>Phoca (=Pusa) hispida botnica</u>	Entire subspecies.	77 FR 76706, Dec 28, 2012	NA	NA
Seal, ringed (Okhotsk subspecies)	<u>Phoca (=Pusa) hispida ochotensis</u>	Entire subspecies.	77 FR 76706, Dec 28, 2012	NA	NA
Seal, spotted (Southern DPS)	<u>Phoca largha</u>	Spotted seals originating from breeding areas in the Pacific Ocean south of 43° N. Lat.	75 FR 65239, Oct 22, 2010	NA	223.212
<u>Sea Turtles</u> <sup>2</sup>					

Sea turtle, green	<u>Chelonia mydas</u>	Entire species, except when listed as endangered under § 224.101.	43 FR 32800, Jul 28, 1978	226.208	223.205, 223.206, 223.207
Sea turtle, loggerhead (Northwest Atlantic Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the Northwest Atlantic Ocean west of 40° W. Long.	76 FR 58868, Sep 22, 2011	NA	223.205, 223.206, 223.207
Sea turtle, loggerhead (South Atlantic Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the South Atlantic Ocean west of 20° E. Long. and east of 67° W. Long.	76 FR 58868, Sep 22, 2011	NA	223.205, 223.206, 223.207
Sea turtle, loggerhead (Southeast Indo-Pacific Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the Southeast Indian Ocean east of 80° E. Long. and from the South Pacific Ocean west of 141° E. Long.	76 FR 58868, Sep 22, 2011	NA	223.205, 223.206, 223.207
Sea turtle, loggerhead (Southwest Indian Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the Southwest Indian Ocean west of 80° E. Long. and east of 20° E. Long.	76 FR 58868, Sep 22, 2011	NA	223.205, 223.206, 223.207
Sea turtle, olive ridley	<u>Lepidochelys olivacea</u>	Entire species, except when listed as endangered under § 224.101.	43 FR 32800, Jul 28, 1978	NA	223.205, 223.206, 223.207
<u>Fishes</u>					
Eulachon (Southern DPS)	<u>Thaleichthys pacificus</u>	Eulachon originating from the Skeena River in British Columbia south to and including the Mad River in northern California.	75 FR 13012, Mar 18, 2010	226.222	NA
Rockfish, canary (Puget	<u>Sebastes pinniger</u>	Canary rockfish originating from Puget Sound and the Georgia Basin.	75 FR 22276, Apr 28, 2010	NA	NA

Sound/Georgia Basin DPS)					
Rockfish, yelloweye (Puget Sound/Georgia Basin DPS)	<u>Sebastes ruberrimus</u>	Yelloweye rockfish originating from Puget Sound and the Georgia Basin.	75 FR 22276, Apr 28, 2010	NA	NA
Salmon, Chinook (California Coastal ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned Chinook salmon originating from rivers and streams south of the Klamath River to and including the Russian River.	70 FR 37160, Jun 28, 2005	226.211	223.203
Salmon, Chinook (Central Valley spring-run ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned spring-run Chinook salmon originating from the Sacramento River and its tributaries. Also, spring-run Chinook salmon from the Feather River Hatchery Spring-run Chinook Program. This DPS does not include Chinook salmon that are designated as part of an experimental population.	70 FR 37160, Jun 28, 2005	226.211	223.203
Salmon, Chinook (Central Valley spring-run ESU-XN)	<u>Oncorhynchus tshawytscha</u>	Central Valley spring-run Chinook salmon only when, and at such times as, they are found in the San Joaquin River from Friant Dam downstream to its confluence with the Merced River, delineated by a line between decimal latitude and longitude coordinates: 37.348930° N., 120.975174° W. and 37.349099° N., 120.974749° W., as well as all sloughs, channels, floodways, and waterways connected with the San Joaquin River that allow for Central Valley spring-run Chinook salmon	78 FR 79622, Dec 31, 2013	NA	223.301

		access, but excluding the Merced River. Also, Central Valley spring-run Chinook salmon when found in portions of the Kings River that connect with the San Joaquin River during high water years.			
Salmon, Chinook (Lower Columbia River ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned Chinook salmon originating from the Columbia River and its tributaries downstream of a transitional point east of the Hood and White Salmon Rivers, and any such fish originating from the Willamette River and its tributaries below Willamette Falls. Not included in this DPS are: (1) spring-run Chinook salmon originating from the Clackamas River; (2) fall-run Chinook salmon originating from Upper Columbia River bright hatchery stocks, that spawn in the mainstem Columbia River below Bonneville Dam, and in other tributaries upstream from the Sandy River to the Hood and White Salmon Rivers; (3) spring-run Chinook salmon originating from the Round Butte Hatchery (Deschutes River, Oregon) and spawning in the Hood River; (4) spring-run Chinook salmon originating from the Carson National Fish Hatchery and spawning in the Wind River; and (5) naturally spawning Chinook salmon originating from the Rogue River Fall Chinook Program. This DPS does include Chinook salmon from 15	70 FR 37160, Jun 28, 2005	226.212	223.203

		artificial propagation programs: the Big Creek Tule Chinook Program; Astoria High School Salmon-Trout Enhancement Program (STEP) Tule Chinook Program; Warrenton High School STEP Tule Chinook Program; Cowlitz Tule Chinook Program; North Fork Toutle Tule Chinook Program; Kalama Tule Chinook Program; Washougal River Tule Chinook Program; Spring Creek National Fish Hatchery (NFH) Tule Chinook Program; Cowlitz Spring Chinook Program in the Upper Cowlitz River and the Cispus River; Friends of the Cowlitz Spring Chinook Program; Kalama River Spring Chinook Program; Lewis River Spring Chinook Program; Fish First Spring Chinook Program; and the Sandy River Hatchery (Oregon Department of Fish and Wildlife Stock #11)..			
Salmon, Chinook (Puget Sound ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned Chinook salmon originating from rivers flowing into Puget Sound from the Elwha River (inclusive) eastward, including rivers in Hood Canal, South Sound, North Sound and the Strait of Georgia. Also, Chinook salmon from 26 artificial propagation programs: the Kendall Creek Hatchery Program; Marblemount Hatchery Program (spring subyearlings and summer-run); Harvey Creek Hatchery Program (summer-run and fall-run);	70 FR 37160, Jun 28, 2005	226.212	223.203



		Whitehorse Springs Pond Program; Wallace River Hatchery Program (yearlings and subyearlings); Tulalip Bay Program; Issaquah Hatchery Program; Soos Creek Hatchery Program; Icy Creek Hatchery Program; Keta Creek Hatchery Program; White River Hatchery Program; White Acclimation Pond Program; Hupp Springs Hatchery Program; Voights Creek Hatchery Program; Diru Creek Program; Clear Creek Program; Kalama Creek Program; George Adams Hatchery Program; Rick's Pond Hatchery Program; Hamma Hamma Hatchery Program; Dungeness/Hurd Creek Hatchery Program; Elwha Channel Hatchery Program; and the Skookum Creek Hatchery Spring-run Program.			
Salmon, Chinook (Snake River fall-run ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned fall-run Chinook salmon originating from the mainstem Snake River below Hells Canyon Dam and from the Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River subbasins. Also, fall-run Chinook salmon from four artificial propagation programs: the Lyons Ferry Hatchery Program; Fall Chinook Acclimation Ponds Program; Nez Perce Tribal Hatchery Program; and the Oxbow Hatchery Program.	70 FR 37160, Jun 28, 2005	226.205	223.203
Salmon,	<u>Oncorhynchus</u>	Naturally spawned spring/summer-run	70 FR 37160, Jun 28,	226.205	223.203

Chinook (Snake River spring/summer-run ESU)	<u>tshawytscha</u>	Chinook salmon originating from the mainstem Snake River and the Tucannon River, Grande Ronde River, Imnaha River, and Salmon River subbasins. Also, spring/summer-run Chinook salmon from 11 artificial propagation programs: the Tucannon River Program; Lostine River Program; Catherine Creek Program; Lookingglass Hatchery Program; Upper Grande Ronde Program; Imnaha River Program; Big Sheep Creek Program; McCall Hatchery Program; Johnson Creek Artificial Propagation Enhancement Program; Pahsimeroi Hatchery Program; and the Sawtooth Hatchery Program.	2005		
Salmon, Chinook (Upper Willamette River ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned spring-run Chinook salmon originating from the Clackamas River and from the Willamette River and its tributaries above Willamette Falls. Also, spring-run Chinook salmon from six artificial propagation programs: the McKenzie River Hatchery Program (Oregon Department of Fish and Wildlife (ODFW) Stock #23); Marion Forks Hatchery/North Fork Santiam River Program (ODFW Stock #21); South Santiam Hatchery Program (ODFW Stock #24) in the South Fork Santiam River and Mollala River; Willamette Hatchery Program (ODFW Stock #22); and the Clackamas Hatchery Program	70 FR 37160, Jun 28, 2005	226.212	223.203

		(ODFW Stock #19).			
Salmon, chum (Columbia River ESU)	<u>Oncorhynchus</u> <u>keta</u>	Naturally spawned chum salmon originating from the Columbia River and its tributaries in Washington and Oregon. Also, chum salmon from two artificial propagation programs: the Grays River Program and the Washougal River Hatchery/Duncan Creek Program.	70 FR 37160, Jun 28, 2005	226.212	223.203
Salmon, chum (Hood Canal summer-run ESU)	<u>Oncorhynchus</u> <u>keta</u>	Naturally spawned summer-run chum salmon originating from Hood Canal and its tributaries as well as from Olympic Peninsula rivers between Hood Canal and Dungeness Bay (inclusive). Also, summer-run chum salmon from four artificial propagation programs: the Hamma Hamma Fish Hatchery Program; Lilliwaup Creek Fish Hatchery Program; Tahuya River Program; and the Jimmycomelately Creek Fish Hatchery Program.	70 FR 37160, Jun 28, 2005	226.212	223.203
Salmon, coho (Lower Columbia River ESU)	<u>Oncorhynchus</u> <u>kisutch</u>	Naturally spawned coho salmon originating from the Columbia River and its tributaries downstream from the Big White Salmon and Hood Rivers (inclusive) and any such fish originating from the Willamette River and its tributaries below Willamette Falls. Also, coho salmon from 21 artificial propagation programs: the Grays River Program; Peterson Coho Project; Big Creek Hatchery Program (Oregon Department of Fish and Wildlife	70 FR 37160, Jun 28, 2005	NA	223.203

		(ODFW) Stock #13); Astoria High School Salmon-Trout Enhancement Program (STEP) Coho Program; Warrenton High School STEP Coho Program; Cowlitz Type-N Coho Program in the Upper and Lower Cowlitz Rivers; Cowlitz Game and Anglers Coho Program; Friends of the Cowlitz Coho Program; North Fork Toutle River Hatchery Program; Kalama River Type-N Coho Program; Kalama River Type-S Coho Program; Lewis River Type-N Coho Program; Lewis River Type-S Coho Program; Fish First Wild Coho Program; Fish First Type-N Coho Program; Syverson Project Type-N Coho Program; Washougal River Type-N Coho Program; Eagle Creek National Fish Hatchery Program; Sandy Hatchery Program (ODFW Stock #11); and the Bonneville/Cascade/Oxbow Complex (ODFW Stock #14) Hatchery Program.			
Salmon, coho (Oregon Coast ESU)	<u>Oncorhynchus kisutch</u>	Naturally spawned coho salmon originating from coastal rivers south of the Columbia River and north of Cape Blanco. Also, coho salmon from one artificial propagation program: the Cow Creek Hatchery Program (Oregon Department of Fish and Wildlife Stock #18).	76 FR 35755, Jun 20, 2011	226.212	223.203
Salmon, coho (Southern	<u>Oncorhynchus kisutch</u>	Naturally spawned coho salmon originating from coastal streams and	70 FR 37160, Jun 28, 2005	226.210	223.203

Oregon/Northern California Coast ESU)		rivers between Cape Blanco, Oregon, and Punta Gorda, California. Also, coho salmon from three artificial propagation programs: the Cole Rivers Hatchery Program (ODFW Stock #52); Trinity River Hatchery Program; and the Iron Gate Hatchery Program.			
Salmon, sockeye (Ozette Lake ESU)	<u>Oncorhynchus nerka</u>	Naturally spawned sockeye salmon originating from the Ozette River and Ozette Lake and its tributaries. Also, sockeye salmon from two artificial propagation programs: the Umbrella Creek Hatchery Program; and the Big River Hatchery Program.	70 FR 37160, Jun 28, 2005	226.212	223.203
Steelhead (California Central Valley DPS)	<u>Oncorhynchus mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers from the Sacramento and San Joaquin Rivers and their tributaries; excludes such fish originating from San Francisco and San Pablo Bays and their tributaries. This DPS does include steelhead from two artificial propagation programs: the Coleman National Fish Hatchery Program, and the Feather River Fish Hatchery Program.	71 FR 834, Jan 5, 2006	226.211	223.203
Steelhead (Central California Coast DPS)	<u>Oncorhynchus mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers from the Russian River to and including Aptos Creek, and all drainages of San Francisco and San Pablo Bays eastward	71 FR 834, Jan 5, 2006	226.211	223.203

		to Chipps Island at the confluence of the Sacramento and San Joaquin Rivers. Also, steelhead from two artificial propagation programs: the Don Clausen Fish Hatchery Program, and the Kingfisher Flat Hatchery Program (Monterey Bay Salmon and Trout Project).			
Steelhead (Lower Columbia River DPS)	<u>Oncorhynchus</u> <u>mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers from rivers between the Cowlitz and Wind Rivers (inclusive) and the Willamette and Hood Rivers (inclusive); excludes such fish originating from the upper Willamette River basin above Willamette Falls. This DPS does include steelhead from seven artificial propagation programs: the Cowlitz Trout Hatchery Late Winter-run Program (Lower Cowlitz); Kalama River Wild Winter-run and Summer-run Programs; Clackamas Hatchery Late Winter-run Program (Oregon Department of Fish and Wildlife (ODFW) Stock #122); Sandy Hatchery Late Winter-run Program (ODFW Stock #11); Hood River Winter-run Program (ODFW Stock #50); and the Lewis River Wild Late-run Winter Steelhead Program.	71 FR 834, Jan 5, 2006	226.212	223.203
Steelhead (Middle)	<u>Oncorhynchus</u> <u>mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below	71 FR 834, Jan 5, 2006	226.212	223.203

Columbia River DPS)		natural and manmade impassable barriers from the Columbia River and its tributaries upstream of the Wind and Hood Rivers (exclusive) to and including the Yakima River; excludes such fish originating from the Snake River basin. This DPS does include steelhead from seven artificial propagation programs: the Touchet River Endemic Program; Yakima River Kelt Reconditioning Program (in Satus Creek, Toppenish Creek, Naches River, and Upper Yakima River); Umatilla River Program (Oregon Department of Fish and Wildlife (ODFW) Stock #91); and the Deschutes River Program (ODFW Stock #66). This DPS does not include steelhead that are designated as part of an experimental population.			
Steelhead (Middle Columbia River DPS-XN)	<u>Oncorhynchus mykiss</u>	Middle Columbia River steelhead only when, and at such times as, they are found above Round Butte Dam.	78 FR 2893, Jan. 15, 2013	NA	223.301
Steelhead (Northern California DPS)	<u>Oncorhynchus mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers in California coastal river basins from Redwood Creek to and including the Gualala River.	71 FR 834, Jan 5, 2006	226.211	223.203
Steelhead (Puget Sound DPS)	<u>Oncorhynchus mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers	72 FR 26722, May 11, 2007	NA	223.203

		from rivers flowing into Puget Sound from the Elwha River (inclusive) eastward, including rivers in Hood Canal, South Sound, North Sound and the Strait of Georgia. Also, steelhead from six artificial propagation programs: the Green River Natural Program; White River Winter Steelhead Supplementation Program; Hood Canal Steelhead Supplementation Off-station Projects in the Dewatto, Skokomish, and Duckabush Rivers; and the Lower Elwha Fish Hatchery Wild Steelhead Recovery Program.			
Steelhead (Snake River Basin DPS)	<u>Oncorhynchus mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers from the Snake River basin. Also, steelhead from six artificial propagation programs: the Tucannon River Program; Dworshak National Fish Hatchery Program; Lolo Creek Program; North Fork Clearwater Program; East Fork Salmon River Program; and the Little Sheep Creek/Imnaha River Hatchery Program (Oregon Department of Fish and Wildlife Stock #29).	71 FR 834, Jan 5, 2006	226.212	223.203
Steelhead (South-Central California Coast DPS)	<u>Oncorhynchus mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers from the Pajaro River to (but not including) the Santa Maria River.	71 FR 834, Jan 5, 2006	226.211	223.203



Steelhead (Upper Columbia River DPS)	<u>Oncorhynchus</u> <u>mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers from the Columbia River and its tributaries upstream of the Yakima River to the U.S.-Canada border. Also, steelhead from six artificial propagation programs: the Wenatchee River Program; Wells Hatchery Program (in the Methow and Okanogan Rivers); Winthrop National Fish Hatchery Program; Omak Creek Program; and the Ringold Hatchery Program.	71 FR 834, Jan 5, 2006	226.212	223.203
Steelhead (Upper Willamette River DPS)	<u>Oncorhynchus</u> <u>mykiss</u>	Naturally spawned anadromous winter-run <u>O. mykiss</u> (steelhead) originating below natural and manmade impassable barriers from the Willamette River and its tributaries upstream of Willamette Falls to and including the Calapooia River.	71 FR 834, Jan 5, 2006	226.212	223.203
Sturgeon, Atlantic (Atlantic subspecies; Gulf of Maine DPS)	<u>Acipenser</u> <u>oxyrinchus</u> <u>oxyrinchus</u>	Anadromous Atlantic sturgeon originating from watersheds from the Maine/Canadian border and extending southward to include all associated watersheds draining into the Gulf of Maine as far south as Chatham, Massachusetts.	77 FR 5880, Feb 6, 2012	NA	223.211
Sturgeon, Atlantic (Gulf subspecies)	<u>Acipenser</u> <u>oxyrinchus</u> <u>desotoi</u>	Entire subspecies.	56 FR 49653, Sep 30, 1991	226.214	17.44(v)
Sturgeon, green (Southern DPS)	<u>Acipenser</u> <u>medirostris</u>	Green sturgeon originating from the Sacramento River basin and from coastal	71 FR 17757, April 7, 2006;	226.219	223.210

		rivers south of the Eel River (exclusive).	71 FR 19241, April 13, 2006		
<u>Corals</u>					
Coral, elkhorn	<u>Acropora palmata</u>	Entire species.	71 FR 26852, May 9, 2006	226.216	223.208
Coral, staghorn	<u>Acropora cervicornis</u>	Entire species.	71 FR 26852, May 9, 2006	226.216	223.208
<u>Marine Plants</u>					
Seagrass, Johnson's	<u>Halophila johnsonii</u>	Entire species.	63 FR 49035, Sep 14, 1998	226.213	NA

<sup>1</sup>Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

<sup>2</sup>Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

4. In § 223.201, paragraph (b)(1) is revised to read as follows:

§ 223.201 Guadalupe fur seal.

\* \* \* \* \*

(b) Exceptions. (1) The Assistant Administrator may issue permits authorizing activities which would otherwise be prohibited under paragraph (a) of this section subject to the provisions of part 222 subpart C, General Permit Procedures.

\* \* \* \* \*

5. In §223.203:

a. Revise paragraph (a), the introductory text of paragraph (b), paragraph (b)(1), and the introductory text of paragraphs (b)(2), (b)(3), and (b)(4);

b. Remove and reserve paragraph (b)(4)(v);

c. Revise the introductory text of paragraphs (b)(5) through (13); and,

d. Revise the first sentence of paragraph (c).

The revisions read as follows:

§ 223.203 Anadromous fish.

(a) Prohibitions. The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to fish with an intact adipose fin that are part of the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102.

(b) Limits on the prohibitions. The limits to the prohibitions of paragraph (a) of this section relating to threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 are described in the following paragraphs:

(1) The exceptions of section 10 of the ESA (16 U.S.C. 1539) and other exceptions under

the Act relating to endangered species, including regulations in part 222 of this chapter implementing such exceptions, also apply to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102.

(2) The prohibitions of paragraph (a) of this section relating to threatened Puget Sound steelhead listed in §223.102 do not apply to:

\* \* \* \* \*

(3) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to any employee or designee of NMFS, the United States Fish and Wildlife Service, any Federal land management agency, the Idaho Department of Fish and Game (IDFG), Washington Department of Fish and Wildlife (WDFW), the Oregon Department of Fish and Wildlife (ODFW), California Department of Fish and Game (CDFG), or of any other governmental entity that has co-management authority for the listed salmonids, when the employee or designee, acting in the course of his or her official duties, takes a threatened salmonid without a permit if such action is necessary to:

\* \* \* \* \*

(4) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to fishery harvest activities provided that:

\* \* \* \* \*

(5) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to activity associated with artificial propagation programs provided that:

\* \* \* \* \*

(6) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to actions undertaken in compliance with a resource management plan developed jointly by the States of Washington, Oregon and/or Idaho and the Tribes (joint plan) within the continuing jurisdiction of United States v. Washington or United States v. Oregon, the on-going Federal court proceedings to enforce and implement reserved treaty fishing rights, provided that:

\* \* \* \* \*

(7) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to scientific research activities provided that:

\* \* \* \* \*

(8) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to habitat restoration activities, as defined in paragraph (b)(8)(iv) of this section, provided that the activity is part of a watershed conservation plan, and:

\* \* \* \* \*

(9) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to the physical diversion of water from a stream or lake, provided that:

\* \* \* \* \*

(10) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not

apply to routine road maintenance activities provided that:

\* \* \* \* \*

(11) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to activities within the City of Portland, Oregon Parks and Recreation Department's (PP&R) Pest Management Program (March 1997), including its Waterways Pest Management Policy updated December 1, 1999, provided that:

\* \* \* \* \*

(12) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to municipal, residential, commercial, and industrial (MRCI) development (including redevelopment) activities provided that:

\* \* \* \* \*

(13) The prohibitions of paragraph (a) of this section relating to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102 do not apply to non-Federal forest management activities conducted in the State of Washington provided that:

\* \* \* \* \*

(c) Affirmative Defense. In connection with any action alleging a violation of the prohibitions of paragraph (a) of this section with respect to the threatened West Coast salmon ESUs and steelhead DPSs (of the genus Oncorhynchus) listed in §223.102, any person claiming the benefit of any limit listed in paragraph (b) of this section or §223.204(a) shall have a defense where the person can demonstrate that the limit is applicable and was in force, and that the

person fully complied with the limit at the time of the alleged violation. \* \* \*

\* \* \* \* \*

6. In § 223.208, paragraph (a)(1) is revised to read as follows:

§ 223.208 Corals.

(a) \* \* \*

(1) The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to elkhorn (Acropora palmata) and staghorn (A. cervicornis) corals listed as threatened in §223.102, except as provided in §223.208(c).

\* \* \* \* \*

7. In § 223.210:

a. Revise section heading;

b. Revise paragraphs (a) and (b) introductory text, (b)(1) introductory text, paragraph (b)(2), (b)(3) introductory text, and (b)(4) introductory text;

c. Revise paragraph (c) introductory text, (c)(1) introductory text, (c)(2) introductory text, and (c)(3) introductory text; and,

d. Revise paragraphs (d) and (e).

The revisions read as follows:

§ 223.210 Green sturgeon.

(a) Prohibitions. The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to the threatened Southern Distinct Population Segment (DPS) of green sturgeon listed in §223.102.

(b) Exceptions. Exceptions to the take prohibitions described in section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) applied in paragraph (a) of this section to the threatened Southern

DPS listed in §223.102 are described in the following paragraphs (b)(1) through (b)(3).

(1) Scientific research and monitoring exceptions. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to ongoing or future Federal, state, or private-sponsored scientific research or monitoring activities if:

\* \* \* \* \*

(2) Enforcement exception. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to any employee of NMFS, when the employee, acting in the course of his or her official duties, takes a Southern DPS fish listed in §223.102 without a permit, if such action is necessary for purposes of enforcing the ESA or its implementing regulations.

(3) Emergency fish rescue and salvage exceptions. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to emergency fish rescue and salvage activities that include aiding sick, injured, or stranded fish, disposing of dead fish, or salvaging dead fish for use in scientific studies, if:

\* \* \* \* \*

(4) Habitat restoration exceptions. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to habitat restoration activities including barrier removal or modification to restore water flows, riverine or estuarine bed restoration, natural bank stabilization, restoration of native vegetation, removal of non-native species, or removal of contaminated sediments, that reestablish self-sustaining habitats for the Southern DPS, if:

\* \* \* \* \*

(c) Exemptions via ESA 4(d) Program Approval. Exemptions from the take prohibitions



described in section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) applied in paragraph (a) of this section to the threatened Southern DPS listed in §223.102 are described in the following paragraphs:

(1) Scientific research and monitoring exemptions. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to ongoing or future state-sponsored scientific research or monitoring activities that are part of a NMFS-approved, ESA-compliant state 4(d) research program conducted by, or in coordination with, state fishery management agencies (California Department of Fish and Game, Oregon Department of Fish and Wildlife, Washington Department of Fish and Wildlife, or Alaska Department of Fish and Game), or as part of a monitoring and research program overseen by, or coordinated by, one of these agencies. State 4(d) research programs must meet the following criteria:

\* \* \* \* \*

(2) Fisheries exemptions. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to fisheries activities that are conducted in accordance with a NMFS-approved Fishery Management and Evaluation Plan (FMEP). If NMFS finds that an FMEP meets the criteria listed below, a letter of concurrence which sets forth the terms of the FMEP's implementation and the duties of the parties pursuant to the FMEP, will be issued to the applicant.

\* \* \* \* \*

(3) Tribal exemptions. The prohibitions of paragraph (a) of this section relating to the threatened Southern DPS listed in §223.102 do not apply to fishery harvest or other activities undertaken by a tribe, tribal member, tribal permittee, tribal employee, or tribal agent in Willapa

Bay, WA, Grays Harbor, WA, Coos Bay, OR, Winchester Bay, OR, Humboldt Bay, CA, and any other area where tribal treaty fishing occurs, if those activities are compliant with a tribal resource management plan (Tribal Plan), provided that the Secretary determines that implementation of such Tribal Plan will not appreciably reduce the likelihood of survival and recovery of the Southern DPS. In making that determination the Secretary shall use the best available biological data (including any tribal data and analysis) to determine the Tribal Plan's impact on the biological requirements of the species, and will assess the effect of the Tribal Plan on survival and recovery, consistent with legally enforceable tribal rights and with the Secretary's trust responsibilities to tribes.

\* \* \* \* \*

(d) ESA section 10 permits. The exceptions of section 10 of the ESA (16 U.S.C. 1539) and other exceptions under the ESA relating to endangered species, including regulations in part 222 of this chapter II implementing such exceptions, also apply to the threatened Southern DPS listed in §223.102. Federal, state, and private-sponsored research activities for scientific research or enhancement purposes that are not covered under Scientific Research and Monitoring Exceptions as described in paragraph (b)(1) of this section or Scientific Research and Monitoring Exemptions as described in paragraph (c)(1) of this section, may take Southern DPS fish pursuant to the specifications of an ESA section 10 permit.

(e) Affirmative defense. In connection with any action alleging a violation of the prohibitions of paragraph (a) of this section with respect to the threatened Southern DPS listed in §223.102, any person claiming that his or her take is excepted via methods listed in paragraph (b) of this section shall have a defense where the person can demonstrate that the exception is applicable and was in force, and that the person fully complied with the exception's requirements

at the time of the alleged violation. This defense is an affirmative defense that must be raised, pleaded, and proven by the proponent. If proven, this defense will be an absolute defense to liability under section 9(a)(1)(G) of the ESA with respect to the alleged violation.

\* \* \* \* \*

8. Add § 223.212 to read as follows:

§ 223.212 Southern DPS of spotted seal.

The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species shall apply to the Southern Distinct Population Segment of spotted seal listed in §223.102.

#### PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

9. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531 et seq. and 16 U.S.C. 1361 et seq.

10. Revise § 224.101 to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species

(a) The regulations in this part identify the species under the jurisdiction of the Secretary of Commerce that have been determined to be endangered species pursuant to section 4(a) of the Act, and provide for the conservation of such species by establishing rules and procedures to governing activities involving the species.

(b) The regulations in this part apply only to the endangered species enumerated in this section.

(c) The provisions of this part are in addition to, and not in lieu of, other regulations of parts 222 through 226 of this chapter which prescribe additional restrictions or conditions governing endangered species.

(d) The table below identifies the species under the jurisdiction of the Secretary of Commerce that have been determined to be endangered pursuant to section 4(a) of the Act, species treated as endangered because they are sufficiently similar in appearance to endangered species, and experimental populations of endangered species.

(e) The columns entitled “Common name,” “Scientific name,” and “Description of listed entity” define the species within the meaning of the Act. In the “Common name” column, experimental populations are identified as “XE” for essential populations or “XN” for nonessential populations. Species listed based on similarity of appearance are identified as “S/A.” Although a column for “Common name” is included, common names cannot be relied upon for identification of any specimen, because they may vary greatly in local usage. The “Scientific name” column provides the most recently accepted scientific name, relying to the extent practicable on the International Code of Zoological Nomenclature. In cases in which confusion might arise, a synonym(s) will be provided in parentheses. The “Description of listed entity” column identifies whether the listed entity comprises the entire species, a subspecies, or a distinct population segment (DPS) and provides a description for any DPSs. Unless otherwise indicated in the “Description of listed entity” column, all individual members of the listed entity and their progeny retain their listing status wherever found, including individuals in captivity. Information regarding the general range of the species, subspecies, or DPS may be found in the Federal Register notice(s) cited in the “Citation(s) for listing determination(s)” column.

(f) The “Citation(s) for listing determination(s)” column provides reference to the Federal Register notice(s) determining the species’ status under the Act. The abbreviation “(SPR)” (significant portion of its range) after a citation indicates that the species was listed based on its status in a significant portion of its range. If a citation does not include the “(SPR)”

notation, it means that the species was listed based on its status throughout its entire range. For “(SPR)” listings, a geographical description of the SPR may be found in the referenced Federal Register Notice. The “(SPR)” notation serves an informational purpose only and does not imply any limitation on the application of the prohibitions or restrictions of the Act or implementing rules.

(g) The “Critical habitat” and “ESA rules” columns provide cross-references to other sections in this part and part 226. The term “NA” appearing in the “Critical habitat” column indicates that there are no critical habitat designations for that species; similarly, the term “NA” appearing in the “ESA rules” column indicates that there are no ESA rules for that species. However, all other applicable rules in parts 222 through 226 and part 402 still apply to that species. Also, there may be other rules in this title that relate to such wildlife. The “ESA rules” column is not intended to list all Federal, state, tribal, or local governmental regulations that may apply to the species.

(h) The endangered species under the jurisdiction of the Secretary of Commerce are:

Species <sup>1</sup>			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
<u>Marine Mammals</u>					
Dolphin, Chinese River (aka baiji)	<u>Lipotes vexillifer</u>	Entire species.	54 FR 22906, May 30, 1989	NA	NA
Dolphin, South Asian River (Indus River subspecies)	<u>Platanista gangetica minor</u>	Entire subspecies.	55 FR 50835, Dec 11, 1990	NA	NA
Porpoise, Gulf of California harbor (aka vaquita or cochito)	<u>Phocoena sinus</u>	Entire species.	50 FR 1056, Jan 9, 1985	NA	NA
Sea lion, Steller (Western DPS)	<u>Eumetopias jubatus</u>	Steller sea lions born in the wild, west of 144° W. Long. Also, Steller sea lions born in captivity whose mother was born in the wild, west of 144° W. Long., and progeny of these captives.	62 FR 24345, May 5, 1997	226.202	224.103, 226.202
Seal, Hawaiian	<u>Monachus</u>	Entire species.	41 FR 51611, Nov	226.201	NA

monk	<u>schauinslandi</u>		23, 1976		
Seal, Mediterranean monk	<u>Monachus monachus</u>	Entire species.	35 FR 8491, Jun 2, 1970	NA	NA
Seal, ringed (Ladoga subspecies)	<u>Phoca (=Pusa) hispida ladogensis</u>	Entire subspecies.	77 FR 76706; Dec 28, 2012	NA	NA
Seal, ringed (Saimaa subspecies)	<u>Phoca (=Pusa) hispida saimensis</u>	Entire subspecies.	58 FR 26920, May 6, 1993	NA	NA
Whale, beluga (Cook Inlet DPS)	<u>Delphinapterus leucas</u>	Beluga whales originating from Cook Inlet, Alaska.	73 FR 62919, Oct 22, 2008	226.220	NA
Whale, blue	<u>Balaenoptera musculus</u>	Entire species.	35 FR 18319, Dec 2, 1970	NA	NA
Whale, bowhead	<u>Balaena mysticetus</u>	Entire species.	35 FR 18319, Dec 2, 1970	NA	NA
Whale, false killer (Main Hawaiian Islands Insular DPS)	<u>Pseudorca crassidens</u>	False killer whales found from nearshore of the main Hawaiian Islands out to 140 km (approximately 75 nautical miles) and that permanently reside within this geographic range.	77 FR 70915, November 28, 2012	NA	NA

Whale, fin or finback	<u>Balaenoptera physalus</u>	Entire species.	35 FR 8491, Jun 2, 1970	NA	NA
Whale, gray (Western North Pacific DPS)	<u>Eschrichtius robustus</u>	Western North Pacific (Korean) gray whales.	35 FR 8491, Jun 2, 1970;  59 FR 31094, Jun 16, 1994	NA	NA
Whale, humpback	<u>Megaptera novaeangliae</u>	Entire species.	35 FR 18319, Dec 2, 1970	NA	224.103
Whale, killer (Southern Resident DPS)	<u>Orcinus orca</u>	Killer whales from the J, K, and L pods, except such whales placed in captivity prior to November 2005 and their captive born progeny.	70 FR 69903, Nov 18, 2005	226.206	224.103
Whale, North Atlantic right	<u>Eubalaena glacialis</u>	Entire species.	73 FR 12024, Mar 6, 2008	226.203	224.103, 224.105
Whale, North Pacific right	<u>Eubalaena japonica</u>	Entire species.	73 FR 12024, Mar 6, 2008	226.215	224.103
Whale, sei	<u>Balaenoptera borealis</u>	Entire species.	35 FR 18319, Dec 2, 1970	NA	NA
Whale, Southern right	<u>Eubalaena australis</u>	Entire species.	35 FR 18319, Dec 2, 1970	NA	NA
Whale, sperm	<u>Physeter macrocephalus</u> (=	Entire species.	35 FR 18319, Dec 2,	NA	NA



	<u>catodon</u> )		1970		
<u>Sea Turtles</u> <sup>2</sup>					
Sea turtle, green	<u>Chelonia mydas</u>	Breeding colony populations in Florida and on the Pacific coast of Mexico.	43 FR 32800, Jul 28, 1978	226.208	224.104
Sea turtle, hawksbill	<u>Eretmochelys imbricata</u>	Entire species.	35 FR 8491, Jun 2, 1970	226.209	224.104
Sea turtle, Kemp's ridley	<u>Lepidochelys kempii</u>	Entire species.	35 FR 18319, Dec 2, 1970	NA	224.104
Sea turtle, leatherback	<u>Dermochelys coriacea</u>	Entire species.	35 FR 8491, Jun 2, 1970	226.207	224.104
Sea turtle, loggerhead (Mediterranean Sea DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the Mediterranean Sea.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (North Indian Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the North Indian Ocean.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (North Pacific Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the North Pacific Ocean.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (Northeast Atlantic Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the Northeast Atlantic Ocean east of 40° W. Long., except in the vicinity of the Strait of Gibraltar where the eastern boundary is 5°36' W. Long.	76 FR 58868, Sep 22, 2011	NA	224.104
Sea turtle, loggerhead (South Pacific Ocean DPS)	<u>Caretta caretta</u>	Loggerhead sea turtles originating from the South Pacific Ocean west of 67° W. Long., and east of 141° E. Long.	76 FR 58868, Sep 22, 2011	NA	224.104

Sea turtle, olive ridley	<u>Lepidochelys olivacea</u>	Breeding colony populations on the Pacific coast of Mexico.	43 FR 32800, Jul 28, 1978	NA	224.104
<u>Fishes</u>					
Bocaccio (Puget Sound/Georgia Basin DPS)	<u>Sebastes paucispinis</u>	Bocaccio originating from Puget Sound and the Georgia Basin.	75 FR 22276, Apr 28, 2010	NA	NA
Salmon, Atlantic (Gulf of Maine DPS)	<u>Salmo salar</u>	Naturally spawned Atlantic salmon originating from the Gulf of Maine, including such Atlantic salmon originating from watersheds from the Androscoggin River northward along the Maine coast to the Dennys River. Also, Atlantic salmon from two artificial propagation programs: Green Lake National Fish Hatchery (GLNFH) and Craig Brook National Fish Hatchery (CBNFH). This DPS does not include landlocked salmon and those salmon raised in commercial hatcheries for aquaculture.	74 FR 29344, Jun 19, 2009	226.217	NA
Salmon, Chinook (Sacramento River winter-run ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned winter-run Chinook salmon originating from the Sacramento River and its tributaries. Also, winter-run Chinook salmon from one artificial propagation program: the Livingston Stone National Fish Hatchery.	70 FR 37160, Jun 28, 2005	226.204	NA
Salmon, Chinook (Upper Columbia River spring-run ESU)	<u>Oncorhynchus tshawytscha</u>	Naturally spawned spring-run Chinook salmon originating from Columbia River tributaries upstream of the Rock Island Dam and downstream of Chief Joseph Dam (excluding the Okanogan River subbasin). Also, spring-run Chinook	70 FR 37160, Jun 28, 2005	226.212	NA

		salmon from six artificial propagation programs: the Twisp River Program; Chewuch River Program; Methow Program; Winthrop National Fish Hatchery Program; Chiwawa River Program; and the White River Program.			
Salmon, coho (Central California Coast ESU)	<u>Oncorhynchus kisutch</u>	Naturally spawned coho salmon originating from rivers south of Punta Gorda, California to and including Aptos Creek, as well as such coho salmon originating from tributaries to San Francisco Bay. Also, coho salmon from three artificial propagation programs: the Don Clausen Fish Hatchery Captive Broodstock Program; the Scott Creek/King Fisher Flats Conservation Program; and the Scott Creek Captive Broodstock Program.	70 FR 37160, Jun 28, 2005; 77 FR 19552, Apr 2, 2012	226.210	NA
Salmon, sockeye (Snake River ESU)	<u>Oncorhynchus nerka</u>	Naturally spawned anadromous and residual sockeye salmon originating from the Snake River basin. Also, sockeye salmon from one artificial propagation program: the Redfish Lake Captive Broodstock Program.	70 FR 37160, Jun 28, 2005	226.205	NA
Sawfish, largetooth	<u>Pristis perotteti</u>	Entire species.	76 FR 40835, Jul 12, 2011	NA	NA
Sawfish, smalltooth (United States DPS)	<u>Pristis pectinata</u>	Smalltooth sawfish originating from U.S. waters.	68 FR 15674, Apr 1, 2003	226.218	NA
Steelhead (Southern	<u>Oncorhynchus mykiss</u>	Naturally spawned anadromous <u>O. mykiss</u> (steelhead) originating below	71 FR 834, Jan 5, 2006	226.211	NA

California DPS)		natural and manmade impassable barriers from the Santa Maria River to the U.S.-Mexico Border.			
Sturgeon, Atlantic (Atlantic subspecies; Carolina DPS)	<u>Acipenser oxyrinchus oxyrinchus</u>	Atlantic sturgeon originating from watersheds (including all rivers and tributaries) from Albemarle Sound southward along the southern Virginia, North Carolina, and South Carolina coastal areas to Charleston Harbor.	77 FR 5914, Feb 6, 2012	NA	NA
Sturgeon, Atlantic (Atlantic subspecies; Chesapeake Bay DPS)	<u>Acipenser oxyrinchus oxyrinchus</u>	Anadromous Atlantic sturgeon originating from watersheds that drain into the Chesapeake Bay and into coastal waters from the Delaware-Maryland border on Fenwick Island to Cape Henry, Virginia.	77 FR 5880, Feb 6, 2012	NA	NA
Sturgeon, Atlantic (Atlantic subspecies; New York Bight DPS)	<u>Acipenser oxyrinchus oxyrinchus</u>	Anadromous Atlantic sturgeon originating from watersheds that drain into coastal waters, including Long Island Sound, the New York Bight, and Delaware Bay, from Chatham, Massachusetts to the Delaware-Maryland border on Fenwick Island.	77 FR 5880, Feb 6, 2012	NA	NA
Sturgeon, Atlantic (Atlantic subspecies; South Atlantic DPS)	<u>Acipenser oxyrinchus oxyrinchus</u>	Atlantic sturgeon originating from watersheds (including all rivers and tributaries) of the ACE (Ashepoo, Combahee, and Edisto) Basin southward along the South Carolina, Georgia, and Florida coastal areas to the St. Johns River, Florida.	77 FR 5914, Feb 6, 2012	NA	NA
Sturgeon, shortnose	<u>Acipenser brevirostrum</u>	Entire species.	32 FR 4001, Mar 11, 1967	NA	NA
Totoaba	<u>Cynoscion</u>	Entire species.	44 FR 29480, May	NA	NA

	<u>macdonaldi</u>		21, 1979		
<u>Molluscs</u>					
Abalone, black	<u>Haliotis cracherodii</u>	Entire species.	74 FR 1937, Jan 14, 2009	226.221	NA
Abalone, white	<u>Haliotis sorenseni</u>	Entire species.	66 FR 29054, May, 29, 2001.	NA	NA

<sup>1</sup>Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

<sup>2</sup>Jurisdiction for sea turtles by the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is limited to turtles while in the water.

[FR Doc. 2014-08347 Filed 04/11/2014 at 8:45 am; Publication Date: 04/14/2014]